United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF & APPENDIX

76-2048

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

JAN 10

DOCKET NO. 76-2048

JOHN ANTHONY HOUSAND,

PLAINTIFF-APPELLANT,

VS.

GERALD E. FARRELL, ATTORNEY,

DEFENDANT-APPELLEE

B

P/S

Brief and Appendix

JOHN ANTHONY HOUSAND
PLAINTIFF-APPELLANT, IN PRO SE
PEMBROKE STATION (FCI)
DANBURY, CONNECTICUT 06810

UNITED STATES COURT OF APPEALS
FILED
JAN 10 1977
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SECOND CIRCUIT

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JOHN ANTHONY HOUSAND,

PLAINTIFF-APPELLANT,

VS.

GERALD E. FARRELL, ATTORNEY,

DEFENDANT-APPELLEE

BRIEF OF PLAINTIFF-APPELLANT

JOHN ANTHONY HOUSAND
PLAINTIFF-APPELLANT, IN PRO SE
PEMBROKE STATION (FCI)
DANBURY, CONNECTICUT 06810

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STATEMENT OF THE CASE

This appeal by Plaintiff-Appellant, in pro se, contests the judgment entered by the United States District Court, For The District of Connecticut, Honorable Jon O. Newman, Judge, Memorandum of Decision, dated on/or about 10 March, 1976. Complaint was dismissed sua sponte.

Plaintiff, on/or about 15 March, 1976, filed a Motion For Amendment of Judgment. On/or about 22 March, 1976, Judge Newman, summarily denied plaintiff's motion.

On/or about 31 March, 1976, plaintiff filed Notice of Appeal, and For Leave To Proceed In Forma Pauperis was filed on 13 April, 1976. On 20 April, 1976, Judge Newman granted these motions.

On 27 April, 1976, plaintiff was transferred to U.S. Penitentiary, Leavenworth, Kansas. On 3 June, 1976, plaintiff's attorneys in related criminal matter, (United States v. Housand, Criminal No. H-75-40 (D.C. Conn. 1976) requested the file pertaining to the instant case, from Clerk's Office, U.S. Court of Appeals, For The Second Circuit, for use in plaintiff's criminal appeal, (United States v. Housand, Docket No. 76-1156 (2d Cir. 1976).

On/or about 21 September, 1976, plaintiff was informed by his attorney's, the file in the instant case had been returned to Clerk's Office.

On 25 September, 1976, plaintiff informed the Clerk, and opposing counsel, plaintiff's brief would be submitted within the week*.

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*Due to plaintiff's layman status, he was not cognizant of rule requirements in submission of briefs, and accompaning documents. The Clerk mailed rules and Court Order pertaining to number of documents required and submission dates, etc.; Plaintiff promptly informed the Clerk's Office, compliance would be in-accordance with rules and Court order.

From on/or about 21 November, 1974, to and including 27 April, 1976, plaintiff was incarcerated in lieu of bond, at FCI, Danbury, Connecticut;

From on/or about 6 December, 1974, to and including 11 September, 1975, plaintiff became very familiar with another prisoner named Joseph N. Crisafi, whom was quartered in the immediate area, (cell area) as plaintiff. During said period of time, Mr. Crisafi informed plaintiff, "Crisafi had furnished a statement and testimony in the two Grand Juries that returned indictments against plaintiff and others, and that his testimony was very exculpatory insofar as plaintiff's involvement in subject Grand Jury Investigations";

Further, during stated period of time, Crisafi informed plaintiff, "that the reasons the Government was not going to use Crisafi as a witness in plaintiff's, or other defendant's trials:

> "The Government discovered Crisafi had committed perjury before the grand juries in which returned indictments against plaintiff and other defendants";

However, Crisafi informed plaintiff, "he had not knowingly committed perjury";

Subsequent to the foregoing, Mr. Crisafi allowed plaintiff to read "his Grand Jury Testimony(s), and letters from Special U.S. Attorneys, and Honorable T. Emmet Clarie, Chief Judge, U.S. District Court, District of Connecticut, in which, (letters) The Government's Attorneys informed Judge Clarie:

> "Special U.S. Attorney John Dowd, had found Crisafi's testimony, and/or information to be untrue and unreliable";

Upon reading Crisafi's testimony and aforementioned letters, plaintiff was convinced of, (in plaintiff's opinion) three important elements, "One, Crisafi's testimony was, indeed, exculpatory to plaintiff; Two, Crisafi had committed perjury in grand juries testimony; and Three, (most important) The Government knew "prior", to issuance of second indictment against plaintiff, that Crisafi had committed perjury;" Regarding "three" of foregoing, Crisafi informed plain-

tiff, "that Special Attorney Dowd, [illegible]ly February, 1975, informed Crisafi, in the presence of Crisafi's Attorney (Defendant Farrell) "The Government did not believe the information and testimony of Crisafi, and the government had information to the contrary, and in fact, the Government believed witness Crisafi to be a "plant" for defendant's named in the Indictments";

Plaintiff, "immediately" notified his attorney in writing, and furnished pertinent excerpt from witness Crisafi's Testimony, and contents of letters, Crisafi received from the Court, Special U.S. Attorneys, and his attorney, Defendant Farrell named in the instant action*;

During July, 1975, Crisafi informed plaintiff, "that his attorney, Mr. Gerald E. Farrell, had shown, (in conversations with Crisafi) and demostrated, "a great amount of interest in a matter, which concerned and distressed plaintiff"**, and that Attorney Farrell stated, "that he would be pleased to represent and handle these legal matters for plaintiff";

On 3 August, 1975, plaintiff wrote Attorney Farrell a letter in which plaintiff expressed his anxiety and distress and stated his intention of pursueing some type of legal action. However, "at no time, did plaintiff request Attorney Farrell to represent plaintiff in "any legal matter"; This particular letter, (3 August, 1975) merely stated plaintiff's concern regarding a Ruling by Honorable T. Emmat Clarie, U.S.D.J., dated 18 April, 1975, Criminal No. H-524, United States v. Guillette, Joost, et al., in which plaintiff was damaged considerably;

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*Plaintiff filed a Motion, For Order Supplementing Record on Appeal, in U.S. District Court, District of Connecticut, dated 4 October, 1976, "requesting Letters and Documents, plaintiff mailed to Judge Clarie on 13 February, 1976";

**Matter involved a Doctor-Patient-Privileged-Relationship, in which doctor violated the privilege of non-disclosure by furnishing a report and testimony in a federal court porceeding, (Criminal No. H-524) in February, 1975; This matter is presently being litigated, (Housand v. Henderson-Clarie, Civil No. N-76-220, U.S. District Court, District of Connecticut) by plaintiff, in pro se;

In a letter dated 18 August, 1975, Attorney Farrell wrote the following to plaintiff:

"Thank you for your letter of August 3, 1975, I do feel you have been wronged by Doctor Henderson, that your privacy has been breached and that you have a right of action against him. Our initial check of federal law indicates that the privilege concerning a psychoanalyst is, in fact, recognized in federal court.

"Max Heiman, if he is the same one I know, is a good attorney. I do not wish to trample on his toes. If you desire that I represent you in bringing an action against Doctor Henderson, you will have to have Attorney Heiman turn his file over to me".

If you feel you would rather stay with Attorney Heiman, that is totally understandable. Whether I hear from you again or not, best wishes in the future". (Emphasis supplied)

On 19 November, 1975, plaintiff informed Attorney Farrell, by letter, plaintiff would agree to Attorney Farrell's offer to represent plaintiff in bringing suit against Doctor Henderson. Several letters were subsequently written by plaintiff and Attorney Farrell, in which plaintiff furnished information relevant to the doctor matter, and information pertaining to Witness Crisafi. Finally, in a letter dated 23 December, 1975, Attorney Farrell informed plaintiff, "he, (Attorney Farrell) was still representing Joseph N. Crisafi, and could not represent plaintiff, until Crisafi's representation was completed"*;

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*It can be determined by official court records, Attorney Farrell's representation of Witness Crisafi, (in U.S. Government and Federal Court Matters) was terminated in mid September, 1975, and on 19 November, 1975, when plaintiff wrote to Attorney Farrell, agreeing to Attorney Farrell's offer to represent plaintiff, "to plaintiff's knowledge, Attorney Farrell was no longer representing Witniss Crisafi in no capacity";

Plaintiff filed a Motion, For Order Supplementing Record on Appeal, in U.S. District Court, District of Connecticut, dated 30 September, 1976, "requesting" Criminal Docket, United States District Court, District of Connecticut, No. H-75-40, U.S. v. Housand, and Criminal Docket, United States District Court, District of Connecticut, No. Unknown, U.S. v. Crisafi, so that Attorney Farrell's representation of Witness Crisafi can be determined, "officially";

On/or about 5 February, 1976, plaintiff subpoened Joseph N. Crisafi as a defense witness, in plaintiff's criminal trial, (Criminal No. H-75-40). Attorney Farrell, (Defendant named herein) was, indeed, representing Witness Crisafi*, and upon advice of Attorney Farrell, Witness Crisafi invoked a "non-existent Fifth Amendment Privilege**, against possible self-incrimination". Despite objections by plaintiff's attorney, Judge Clarie allowed Witness Crisafi to invoke very questionable privilege.

Plaintiff states, "it can be inferred, and argued with much pursuasion, Attorney Farrell benefited from information plaintiff furnished in a letter, dated 15 December, 1975, (with attachments) to Attorney Farrell, in which contained, "range and depth, of proposed cross-examination of witness Crisafi", i. e., "probable perjury of witness Crisafi, and The Government's knowledge of probable perjury, prior to issuance of second indictment against plaintiff";

Without the exculpatory testimony of Witness Crisafi, and wrongful misconduct of Attorney Farrell, (Defendant named herein) plaintiff was found guilty, and received an effective sentence of ten (10) years imprisonment.

**Witness Crisafi was given a "grant of use immunity", pursuant to Title 18, U.S.C., Section(s) 6002-3, in return for testimony given in Grand Jury II, on/or about 31 January, 1975; (See, Docket No. 76-1156, United States v. John Anthony Housand, 2d Cir. 1976);

*On 6 February, 1976, "CJA-20, executed, (Templeton, D.C.)", appointing Gerald E. Farrell, to represent witness, (Crisafi); See, Docket Entry, Criminal Docket, United States District Court, United States v. Housand, No. H-75-40; NOTE: Motion, For Order Supplementing Record on Appeal, filed by plaintiff on 30 September, 1976, requesting Criminal Dockets, was "Granted", on 5 October, 1976, by Honorable Jon O. Newman, U.S.D.J., U.S. District Court, District of Connecticut;

Note to Reader: Plaintiff "inadvertly", transposed "astrisks" at bottom of this page;

I. THE DISTRICT COURT ERRED WHEN IT DID NOT "LIBERALLY CONSTRUE PRO SE COMPLAINT OF PLAINTIFF".

Pro Se Complaints are to be read with especial liberatlity. e. g., Haines v. Kerner, 92 S.Ct. 594 (1972); Dismissal is appropriate only if the district court, so reading the complaint, might conclude with assurance that it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief". For this purpose, the allegations of the complaint are accepted as true, Cruz v. Beto, 92 S.Ct. 1079 (1972); Foregoing quoted with approval in, Patterson v. MacDougall, 506 F.2d 1 (5th Cir. 1975);

Should the allegations of the complaint, and amendment thereto, are accepted as true, the plaintiff, (notwithstanding technicalities*) plainly allege acts and practices that justify the district court should have, at a bare minimum, "allowed plaintiff to offer additional evidence, or as an alternative, "ordered an investigation", because of seriousness of allegations, i. e., One, "Alleged misconduct of a member of the bar, and officer of the Court"; and Two, "Alleged violation of plaintiff's U.S. Constitutional Privileges, Amendments Five, (Due Process) and Amendment Six, (Confrontation, and Cross-Examination);

Plaintiff respectfully submits, Judge Newman clearly erred by failing to liberally construe pro se complaint, and respectfully requests this Court to Remand for further proceedings, as deemed appropriate.

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*In Judge Newman's Memorandum, "jurisdictional amount in controversy", was cited as a reason for dismissal of plaintiff's complaint";

Plaintiff could be in error, but is of the opinion, "plaintiff's pro se complaint, and plaintiff's (very obvious) lack of legal expertise, prohibits, a dismissal for failure to comply with legal technicalities"?

II. THE DISTRICT COURT ERRED IN FAILING TO EMPLOY "SUFFICIENCY TEST" IN DISMISSING PLAINTIFF'S COMPLAINT.

The question presented is whether the District Court acted prematurely and hence erroneously in dismissing the complaint of plaintiff on the stated ground, thus precluding any opportunity for the plaintiff by subsequent proof to establish a claim.

In Schuer v. Rhodes, 94 S.Ct. 1683 (1974); at 1686, the Court held:

"When a federal court reviews the sufficiency of a complaint, before the reception of any evidence either by affidavit or admissions, its task is necessarily a limited one. The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims. Indeed it may appear on the face of the pleadings that a recovery is very remote and unlikely but that is not the test. Moreover, it is well established that, in passing on a motion to dismiss, whether on the ground of lack of jurisdiction over the subject matter or for failure to state a cause of action, the allegations of the complaint should be construed favorably to the pleader.

"In appraising the sufficiency of the complaint we follow, of course, the accepted rule that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief". Conley v. Gibson, 355 U.S. 41,45-46, 78 S.Ct. 99, 102, 2 L.Ed.2d 80 (1957) (footnote omitted).

See also Gardner v. Toilet Goods Assn., 387 U.S. 167,172, 87 S.Ct. 1526, 1529, 18 L.Ed.2d 704 (1967).

Plaintiff submits the foregoing, is even more applicable in the instant case, in that plaintiff submitted a pro se complaint to the District Court. Plaintiff respectfully argues, "one to whom a duty is owed has a right to assume that it will be performed". The District Court could not find any basis to believe or expect a layman such as plaintiff, (very little formal education and no legal expertise) to know the rules of ethical conduct of attorneys and federal court, (jurisdictional amount in controversy, etc.) technicalities. Therefore, plaintiff respectfully requests this Court Remand this civil matter for further proceedings as deemed appropriate.

III. THE DISTRICT COURT ERRED IN DISMISSING COMPLAINT ON GROUNDS DEFENDANT DID NOT BREACH OR EXCEED, CONFLICT OF INTEREST LIMITATIONS, RESULTING IN INFRINGEMENT OF PLAINTIFF'S U.S. CONSTITUTIONAL PRIVILEGES.

Plaintiff advances the argument, the policy underlying the attorney client privilege is to promote the administration of justice. It would be a perversion of the privilege to extend it so as to protect communications designed to frustrate justice by committing other crimes to conceal past misconduct. i. e., "Defendant's knowledge of probable perjury committed by Witness Crisafi, and knowledge gained through written communications with plaintiff concerning intention of plaintiff, to confront and cross-examine, witness Crisafi pertaining to alleged perjury of Crisafi, in plaintiff's criminal trial". See, Brief of Defendant-Appellant, and Brief of The Government, Docket No. 76-1156, United States v. John Anthony Housand, (2d Cir. 1976); and Letter, to Defendant, from Plaintiff, dated 15 December, 1975, and in documents attached to letter, "entitled, allegations", plaintiff plainly informed defendant of plaintiff's knowledge of Witness Crisafi's "probable perjury", and the Government's knowledge of Crisafi's probable perjury in grand jury proceedings, etc.; It is beyond dispute, that attorney-client privilege does not extend to communications regarding an intended crime; See, 8 Wigmore on Evidence Section 2298 (McNaughton Rev. 1961) and cases cited;

Plaintiff believes he can argue with much persuasion that Defendant was duty-bound to inform plaintiff's trial court, of the following:

a. Reasons for advising Witness Crisafi to invoke "questionable" Fifth Amendment Privilege; (knowledge of probable perjury, etc.);

b. Defendant's communications with plaintiff, and impropriety of such communications;

c. Request leave to decline appointment in representing Witness Crisafi in plaintiff's criminal proceedings;

d. Defendant's alleged conflict of interest by soliciting legal business from plaintiff, and implied contract by defendant's letter to plaintiff, dated 18 August, 1975, and subsequent letters to plaintiff from defendant;

Judge Newman, in dismissing complaint stated: "Defendant's actions constituted nothing more than a minor inquiry, and did not constitute a conflict of interest, or implied legal contract", (this is plaintiff's interpretation); Although generally, findings of fact by lower court must be accepted by an appellate court unless they are clearly erroneous, F.R.Civ.P. 52(b), determinations, whether called ultimate findings or conclusions of law may be reversed if upon examination of the record they are found to be erroneous. See, Edwards v. South Carolina, 83 S.Ct. 680 (1963); and United States v. Weingarden, 473 F.2d 454 (6th Cir. 1973);

Plaintiff firmly believes, it was incumbent upon Defendant-Attorney Farrell, and defendant was duty-bound to inform plaintiff in first letter, that there was no possible way defendant could represent plaintiff in any legal matter, even remotely related to his representation of adverse witness Crisafi. In the instant case, defendant failed to state anything to the contrary, until defendant was in possession of documents and informations, furnished by plaintiff, that in plaintiff's opinion, "truly breached conflict of interest limitations", as imposed by Attorneys, Code of Professional Responsibilities. This Court in Silver Chrysler Plymouth, Inc. v. Chrysler Mot. Corp., 518 F.2d 751 (2d Cir. 1975); and cases cited therein, held:...at 753,(2) "A starting point is of necessity the Code of Professional Responsibility. Canon 4 provides: "A Lawyer Should Preserve the Confidences and Secrets of a Client". Canon 9 also cautions that "A Lawyer Should Avoid Even the Appearance of Professional Impropriety". But ethical problems cannot be resolved in a vacuum"; With due respect, plaintiff believes Judge Newman in dismissing complaint, did in fact, resolve alleged misconduct of defendant in a vacuum. Plaintiff also believes this Court's holding in United States v. Frank, 494 F.2d 145 (2d Cir. 1974), is very applicable in the instant case, (although Frank was a criminal case) at page 152, held:....

..."But too many red flags were flying to make these contentions plausible. It is useful to recall Judge Learned Hand's observation that "the cumulation of instances, each explicable only by extreme credulity or professional inexpertness, may have a probative force immensely greater than any one of them alone". United States v. White, 124 F.2d 181,185 (2d Cir. 1941); We repeat also that lawyers cannot escape * * * liability on a plea of ignorance when they have shut their eyes to what was plainly to be seen;(and cases cited therein);

The "red flags", in the instant case were in proper legal hands, i. e., One, "plaintiff's attorney in criminal matter was in possession of all information quoted herein, as early as September, 1975, (See, Ineffective Assistance of Counsel Issue, Docket No. 76-1156, United States v. John Anthony Housand, (2d Cir. 1976); Two, Honorable T. Emmet Clarie, Presiding and Chief Judge, was made aware of Defendant-Attorney Farrell's alleged, misconduct in letters, and information mailed to Judge Clarie, on/or about 13 February, 1976*, and plaintiff mailed instant case complaint to Judge Clarie, in his capacity as Chief Judge, and was assigned to Honorable Jon O. Newman, U.S.D.J.; and Three, "in plaintiff's Motion For Amendment of Judgment, in the District Court, to the best of his ability, plaintiff believes Judge Newman was alerted to alleged misconduct of defendant, and alleged U.S. Constitutional Amendment Violations";

In The Silver Chrysler Decision, this Court further stated, at 753..."Nor can judges exclude from their minds realities of which fair decision would call for judicial notice"; Finally, this Court in United States v. Armedo-Sarmiento, 524 F.2d 591 (2d Cir. 1975), stated: "This Circuit has, in civil cases, frequently stressed the responsibility of the district courts and the bar to avoid situations in which attorneys' conflicts of interest may endanger the confidentiality of clients' privileged communications, as well as cast public doubt on the ethics of the legal profession and the integrity of the judicial process". (Cases cited omitted) The Court continued: "Because these civil cases do not involve the crucial factor of the criminal defendant's Sixth Amendment rights, however they are not controlling in the present case";

***

*See Footnote, page 4 of foregoing brief;

In plaintiff's Motion For Amendment of Judgment, stated, "injuries resulted by denial of Sixth Amendment privilege, by alleged wrongful negligent misconduct of Defendant-Attorney Farrell, and resulting injuries did in fact, meet any jurisdictional amount in controversy";

Accordingly, this Court should reverse and remand for further proceedings, and for a determination of the damages plaintiff-appellant sustained.

C O N C L U S I O N

For the foregoing reasons, the judgment of the District Court should be reversed.

RESPECTFULLY SUBMITTED,

JOHN ANTHONY HOUSAND
PLAINTIFF-APPELLANT, IN PRO SE
PEMBROKE STATION (FCI)
DANBURY, CONNECTICUT 06810

SUBSCRIBED AND SWORN TO BEFORE ME THIS 18TH DAY OF OCTOBER, 1976.

NOTARY PUBLIC

"Authorized by the Act of July 7, 1956
to administer oaths (18 U.S.C. 4004)"

C E R T I F I C A T I O N

This is to certify that a copy of the foregoing was mailed, postage prepaid, to: Mr. Gerald E. Farrell, Esquire, 375 Center Street, Wallingford, Connecticut 06492, this 18TH day of October, 1976.

JOHN ANTHONY HOUSAND
PLAINTIFF-APPELLANT, IN PRO SE

Law Offices

Gerald E. Farrell

375 Center Street

Wallingford, Connecticut 06492

269-7756

Gerald E. Farrell

Walter R. Kusak

August 18, 1975

Mr. John A. Housand
25790-145 Pembroke Station
Danbury, Connecticut 06810

Dear Mr. Housand:

Thank you for your letter of August 3, 1975. I do feel you have been wronged by Doctor Henderson, that your privacy has been breached and that you have a right of action against him. Our initial check of federal law indicates that the privilege concerning a psychoanalyst is, in fact, recognized in federal court.

Max Heiman, if he is the same one I know, is a good attorney. I do not wish to trample on his toes. If you desire that I represent you in bringing an action against Doctor Henderson, you will have to have Attorney Heiman turn his file over to me.

You do not have to apoligize for the length of your letter. I enjoy reading between the lines, especially your comments about my friend.

If you feel you would rather stay with Attorney Heiman, that is totally understandable. Whether I hear from you again or not, best wishes in the future.

Sincerely,

Gerald E. Farrell

GEF:mz

Law Offices

Gerald E. Farrell

375 Center Street

Wallingford, Connecticut 06492

269-7756

Gerald E. Farrell

Walter R. Kusak

December 3, 1975

Mr. John A. Housand
No. 25790-145
Pembroke Station
Danbury, Connecticut 06810

Dear John:

I had understood that Doctor Donnelly, the physician you wish to bring action against, had examined you in a private relationship. Appraisal of the letters you sent to me indicate that it may have been under Court order. Would you kindly advise the exact circumstance of your relation with this physician.

Thanking you, I am

Sincerely yours,

Gerald E. Farrell

GEF:mz

Law Offices

Gerald E. Farrell

375 Center Street

Wallingford, Connecticut 06492

269-7756

Gerald E. Farrell

Walter R. Kusak

December 12, 1975

Mr. John A. Housand
No. 25790-145
Pembroke Station
Danbury, Connecticut 06810

Dear John:

Court personnel, which, of course, could be mistaken, informed me that you waived your previlege as to Doctor Henderson's testimony in open Court. Are you sure that at no time did you ever waive your previlege as to Doctor Henderson? Please advise.

Sincerely yours,

Gerald E. Farrell

GEF:mz

Law Offices

Gerald E. Farrell

375 Center Street

Wallingford, Connecticut 06492

269-7756

Gerald E. Farrell

Walter R. Kusak

December 24, 1975

Mr. John A. Housand
No. 25790-145
Pembroke Station
Danbury, Connecticut 06810

Dear John:

I must delay any decision on representing you until my representation of Joseph Crisafi has come to an end. I expect that to be soon. I will contact you when it has come to an end.

Thanking you, I am

Sincerely yours,

Gerald E. Farrell

GEF:mz

Exhibit "A"

John A. Housand
No. 25790-145
Pembroke Station
Danbury, Conn. 06810

3 August 1975

Mr. Gerald E. Farrell, Esquire
375 Center Street
Wallingford, Connecticut 06492

Dear Mr. Farrell:

In reality, your writer feels that "he knows" you, rather well.

In all probability, I am one of the "few" individuals that actually "knows", what is "fact and fiction", in this bucket of worms, and I find a certain "bizzare" amusement, in that "neither" side "dares" to call me as a witness. I might add, "your writer has no desire to "ever" be a witness, not anymore". Further, I am quite certain "your client" is much better-off, "not" being a witness. In fact, "your client" was not equipped to "play" in that game. Take this as "truth", from someone that has become an "expert" on Strike Force Attorneys, etc.,. It has been a very "unique" experience, from both "camps", (one I could have passed).

Actually from a "case" point of view, I believe I'm not too bad off, (I could be totally wrong). I have played the "devil's advocate", from every possible angle, and "if" they convict me, (thats a big "if") I can't help but winning on an appeal--there again, I could be wrong.

Personally, I believe, "anyone" connected with this case, "knows" your writer's prosecution is motivated by "revenge factors", the word "justice" doesn't enter the picture. You can rest assured, your writer is going to raise the "largest" prejudice issue, the federal courts have ever encountered. Naturally your writer is very much aware, the trial court will restrict many issues, but they will go on record, for appeal purposes, and from what you know, I have some beautys.

The "one" issue that probably upsets me, more than "all" the others, is: "the testimony of Dr. Harry Henderson in that "hearing" for a re-trial." My question is simply this: "How, (legally) was he allowed to testify in that hearing, "without" me "waiving" doctor-patient privilege??" Believe me, Mr. Farrell, John Anthony Housand "never", and I mean "not ever" gave "no one" permission to approach that doctor, and definitely did not, ever, WAIVE the "privilege". I was a private citizen, and my family doctor referred me to Dr. Henderson for professional services, and I was admitted to Henderson's Hospital, as a patient, in the year 1965. The reason for the hospitalization was at Henderson's request.

One other point: Max Heiman, (my attorney) has informed me, "he" is unable to locate any federal law governing this subject, but he is still searching. I believe Max is a good attorney, and I do not doubt his abilities, etc., but to tell the truth, I'm a bit "gun-shy" of attorneys.

As a rule, State Laws do not apply in Federal Courts, however, I wrote to Nebraska, and received their statutes on "privilege", "theirs'state": "Doctors are prohibited from providing testimony in "any court", without an explict "waiver" from the patient": Connecticut has basically the same statute.

Yet, Mr. Farrell, "somehow, someway", this doctor was allowed to testify. Personally, I would enjoy, "increasing his insurance rates".

I apologize for the length of this letter. Your client, (in my opinion) could "win" his "entire" ballgame, with a little help, here and there, I understand "your" position, and "we both know" he can be difficult. Your writer helps him as much as possible, primarily he is worse than I am. This may seem strange, (coming from me) but its the truth.

Thank you for reading this, and if you have comments, I would appreciate them--at your convenience. Sincerely, J.

John A. Housand
No. 25790-145
Pembroke Station
Danbury, Conn. 06810

19 November 1975

Mr. Gerald E. Farrell, Esquire
375 Center Street
Wallingford, Connecticut 06492

Re: Your Letter, dated 18 August 1975, and My Letter, dated 3 August 1975.

Dear Mr. Farrell:

First, I wish to thank you, (belatedly) for your very kind letter, as referenced above, and do extend my sincere apologies, for not answering your letter much earlier.

The primary reason for the delay in answering your letter is attempting to "keep all my eggs, in one basket", in a manner of speaking. However, after consulting with, and discussing this particular aspect, (The Henderson, et., al., Matter) with Max Heiman, and receiving no affirmative answer, in this, and related matters, (I hasten to add, this decision of mine has nothing to do with my trust, faith, and total confidence, in Max Heiman's handling of my criminal matter). Quite the contrary, in my opinion, Mr. Heiman's heavy trial schedule, prohibits the attention, The Henderson, et al., Matter deserves and requires.

If you still have the interest you stated in your letter? Housand would be privileged, and most appreciative, if you and your firm would handle the Henderson, et al., Matter for John Anthony Housand, at your earliest convenience.

Please be advised, John Anthony Housand, does hereby authorize your law firm to consult with, and be furnished with required documents, and/or information, applicable to the Henderson, et al., Matter, from the legal file of Mr. Maxwell Heiman, Esquire, the attorney representing Housand in a related criminal action. Mr. Maxwell Heiman, Esquire is a partner of the Law Firm of Furey, Donovan & Heiman, P.C., Office Address: 43 Bellevue Avenue, Bristol, Connecticut 06010, Telephone Number: Area Code 203-589-4343.

Further, your writer is enclosing a copy of The Nebraska General Statutes, dealing with "Privilege", pertaining to "Doctor-Patient Relationship, Etc,. Also, your writer believes through his limited research, he has discovered the "controlling" U.S. Supreme Court Decision(s) governing "waiver" and applicable Rule, of Federal Rules of Civil Procedure. See: Brookhart vs. Janis, 86 S.Ct. 1245 (1966) - "Waiver Requirements" - AND - Schlagenhauf vs. Holder, 86 S.Ct. 234 (1964) - "Federal Rules of Civil Procedure" - This decision specifically deals with "Rule 35" requirements, and definitely refers to Rule 26(b)'s "control" over Rule 35. Granted the rules have been changed, Rule 35 in particular, "Rule 26" has not changed.

Mr. Farrell, be further advised, "you are authorized to consult with the former attorneys of John Anthony Housand, regarding this matter". They are: Mr. Ralph G. Elliot, of Alcorn, Bakewell, & Smith, One American Row, Hartford, Connecticut 06103, and Mr. F. Timothy McNamara, 102 Oak Street, Hartford, Connecticut, 06106. This also authorizes these attorneys to release information you require, regarding the Henderson, et al, Matter.

Your writer would appreciate very much, meeting with you to discuss the foregoing, at your earliest convenience.

Trusting to hear from you in the very near future, I am,

Encls.

Sincerely,

John Housand

cc: Mr. Maxwell Heiman, Esquire

John A. Housand
No. 25790-145
Pembroke Station
Danbury, Conn. 06810

6 December 1975

Mr. Gerald E. Farrell, Esquire
375 Center Street
Wallingford, Connecticut 06492

Re: Your Letter, dated 3 December 1975

Dear Jerry:

Received your letter, and do wish to thank you so very much. Must say, was beginning to wonder, but then would remember, "how much courage you displayed in "standing-up" to the Strike Force Idiots, when you were defending our "friend(?)", and John would say to "self": "Self, this guy has "heart", or "guts" if you prefer".

To answer your inquiry:

1. Dr. Harry Henderson, of Omaha, Nebraska, is "our" main objective.
   a. Dr. Henderson treated Housand in a "totally" private matter, and as a "private patient", in Dr. Henderson's "professional" capacity, during July 1965.
   b. Housand was referred to Dr. Henderson for treatment, by Housand's family doctor, (Dr. Donald Parkinson of Millard, Nebraska), and Housand checked himself in Dr. Henderson's Hospital for treatment.
   c. Dr. Henderson submitted a report to Judge Clarie, and Dr. Henderson furnished testimony in the Joost, Guillette, and Zinni, Hearing, on/or about 14 February 1975.

PLEASE NOTE: At no time, did John A. Housand, "authorize" anyone to consult with Dr. Harry Henderson, and John A. Housand, "at no time" WAIVE, "Doctor-Patient Privilege". Further, "no individual" ever informed John A. Housand, that Dr. Henderson would testify in "any legal proceeding". It is worthy to "note", Housand was the "first" witness called to testify in that Hearing, on 10 February 1975, and Housand "effectively" put "all" parties on notice, by invoking his "Fifth Amendment Privilege".

1. Dr. John Donnelly, of Hartford, Connecticut, (by Court Order) examined Housand in January and February 1975, for the "express purpose" to determine, "if" Housand was competent to "assist his attorneys in Housand's defense of "charges against Housand", per the 11 December 1974 Indictment.

"Interesting Point": When Housand terminated his cooperation attempt with Dowd and Company on 18 February 1975. On 21 February 1975, Dowd called Dr. Donnelly to support Dr. Henderson's testimony, in what proved to be a successful effort to "shift" all misconduct to Housand, instead of Coffey, and other government officials. Yet, the defense, (Wade, Santos, etc.,) called Dr. Henderson. Dowd made a "good move" by calling Dr. Donnelly, after Housand refused to cooperate. Also, Housand's Attorneys were prohibited from cross-examination of witnesses in that Hearing, because we were "not a party" in the legal sense, i.e. "Respondent or Defendant".

Jerry, I have many, many, facts, and information regarding this matter. If possible, I would appreciate visiting with you to discuss this mess.

Thank you again, and please advise, and keep me posted, I am,

Sincerely,

P.S. Please read the "Schlaghauf Case, I sent you".

John A. Housand

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John A. Lousand
I.D. 25790-145
Pembroke Station
Danbury, Conn. 06810

8 December 1975

Mr. Gerald E. Farrell, Esquire
375 Center Street
Wallingford, Connecticut 06492

Re: The Dr. Henderson Matter, et al.

Dear Jerry:

This "Jerry" has some more information for you, that in my opinion, shall be "very valuable" in putting together, this "bucket of worms", I could be totally wrong, but to "your client", this could be "our platform" to truly "nail this thing together". By the way, "how is our friend doing"?? "O.K", I messed-up your entire day, (I think I still have a sense of humor).

COMPELLED, (IMMUNIZED) TESTIMONY
U.S.Const.Amend. 5 Compelled, (Immunized) Testimony - Pursuant to Title 18, Section 6002-3, and the following: (Controlling Decisions)

Kastigar v. United States, 92 S.Ct. 1653 (1972)

United States v. Dorman, 359 F.Supp. 684 (S.D.N.Y. 1973)

United States v. McDaniel, 482 F.2d 305 (8th Cir. 1973)

Naturally "Kastigar" established the requirements regarding "immunized" testimony. Following are "cuts" out of above subsequent cases, to give you a small idea, as to "how" they might(?) apply to the Henderson, et al, bit:

"District Judge Metzner stated: "ONCE, the subject matter was touched upon in the privileged testimony, and the prosecutor had read it, he could have used it in a variety of ways in this criminal prosecution. The possibility of such use, and impossibility of clearly showing that the use did not occur calls for the holding in this case that the defendants were denied constitutional protection that their silence would have given them". McDaniel supra, "But even so, the United States Attorney is subject to human frailties. Thus, although he asserts that he did not use McDaniel's testimony in any form, we cannot escape the conclusion that the testimony could not be wholly obliterated from the prosecutor's mind in his preparation and trial of the case. We agree with "Judge Metzner" that "it is difficult for the court to speculate as to the effect that the reading of the minuted might have had on the conduct and thinking processes of the prosecutor". Dorman supra, "In sum, the unusual circumstances attending the controversy renders the government's burden of proof in this case virtually undischargeable." McDaniel supra, "To be coextensive with constitutional privilege against "self-incrimination", the immunity granted a witness on compelling him to testify must forbid all prosecutorial use of such testimony, direct as well as indirect, and not merely that which results in presentation of evidence before a jury; immunized use includes assistance in focusing investigation, deciding to initiate prosecution, refusing to plea-bargain, interpreting evidence, planning cross-examination and otherwise generally planning trial strategy".

Jerry, bear in mind; "the foregoing pertains to the "use of immunized testimony, in a subsequent prosecution, such as mine", and Heiman and I cannot "open this door" until a jury is empaneled". Of course, the government is going to claim Housand's "so-called, recantation" cancels the immunity". Nor Heiman, nor Housand is "that concerned" about Uncle Sam's Claim".

To be perfectly honest, and in my opinion, "if Strike Force Inc., has considered, (and this Jerry does not believe "they" have) "exactly what they are going to "open-up", if Housand is brought to trial", the government would have "patted-me-on-the-behind", and sent Housand and family to parts unknown".

Also, Housand sorta WONDERS, about the thinking of Judge Clarie, insofar as the "conduct" of Government Officials, now that "lightning" struck in his Court "twice"?? I am referring to the recent "Grasso Case", in which His Honor Clarie declared a mis-trial. Jerry, ironically, the Grasso Case happened "one year, to the "exact day" that Housand was ordered held by

(Continued)

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Letter to Mr. Farrell - Continued:

"Judge Clarie". I have "mixed-emotions" insofar as Judge Clarie is concerned, i.e. "On the one hand, Housand can blame many things on His Honor, even to the point, where, (in my opinion) Judge Clarie "over-reacted", and did "abuse judicial discretion", and a little "personal discretion, also". Yet, on the other hand, Housand can understand many of the reasons behind that decision, i.e. "Judge Clarie was not going to "emulate" Judge Sirrica, of Watergate Fame, although he should have!! Simply stated, "he could have, and should have "ruled" Housand's Immunity was still effective, which it is still effective". The point of the Strike Force investigating Strike Force, was brought to his attention, and he refused to correct the situation". AND, "that quickie indictment "silenced" Housand". Whereas, Judge Clarie was dependant upon the integrity(?) of "Czar, Dowd, Coffey, and ATF Agents", and Santos, Wade, and Zinni, "did not know", the "right questions" that should have been asked, nor did they have "the right witnesses, excluding Housand". Therefore, Judge Clarie can be sorta excused to some degree, however, I do not excuse him for allowing Dr. Henderson to testify, nor allowing Dowd to call Dr. Donnelly to testify, "especially" since Housand and his attorneys were prohibited from "challenging" the testimony of these two doctors". One more item, and Housand shall move on to other things; "Prior to His Honor's Decision, Housand wrote him requesting Mr. McNamara and Mr. Elliot be discharged and replaced with a new attorney for Housand, for cause". In the same letter, "Housand "waived" as an "appeal condition", and requested His Honor be The Presiding Judge, in Housand's Case". According to Max Heiman, "this particular request of Housand's "impressed, but definitely puzzled The Judge". He is my presiding judge, not only in the Criminal Matter, but he is presiding over three (3) Civil Actions of Housand's, too"!!! Plus, he is going to receive a motion, (from me) very soon pertaining to the Criminal Matter.

Jerry, suggest you also "check these cases":

DeFunis v. Odegaard, 94 S.Ct. 1704 (1974)

McCabe v. Nassau County Medical Center, 453 F.2d 698 (2d Cir. 1971)

Lovell v. McCormick, 89 S.Ct. 1944 (1969)

Basically these are the "controlling" decisions on the question of "Mootness". Also see: "Bigelow v. RKO Radio Pictures, Inc., 66 S.Ct. 574", - "The Court said: "The most elementary conceptions of justice and public policy require that the wrongdoer shall bear the risk of the uncertainty which his own wrong has created".

Should be enough to keep you busy for an "hour or two", and if you can, I would really like to discuss this, and a couple of other matters with you, (nothing to do with my criminal case) but do believe you would be rather interested from a "monetary" point".

Thank you for the interest you have given this matter, I am,

Sincerely,

John A. Housand

P.S. Robert Czar is conducting the "Hoffa" investigation--Read this in Fridays, Daily News, (New York)...Interesting??

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John A. Housand
No. 25790-145
Pembroke Station
Danbury, Conn. 06810

15 December 1975

Mr. Gerald E. Farrell, Esquire
375 Center Street
Wallingford, Connecticut 06492

Re: Your Letter dated 12 December 1975

Dear Jerry:

Received your letter, (late Sunday) and wish to thank you for being so very prompt.

Court Personnel are definitely "in error", regarding the Henderson Matter. What actually occured, is as follows:

1. The Court had received Reports from Dr. Henderson and Dr. Donnelly, and had an "in camera" inspection of these reports.

2. Housand was brought to Hartford on/or about 6 February 1975, for what I believed to be a conference with my attorneys, (Mr. McNamara and Mr. Elliot) After visiting a while, Mr. McNamara told me, Judge Clarie had received Dr. Donnelly's Evaluation, and had received Henderson's Report of the 1965 Treatment of Housand.

McNamara and Housand discussed the Donnelly Report, and we agreed it was in fact favorable to Housand. McNamara left and returned a short time later, and said, Judge Clarie in all probability, was going to release the reports to the Defense Counsels of Joost, et al., "even over "our" objections, His Honor would release the reports.

We went in to the Court, and McNamara informed Housand, Judge Claire had decided to release the reports, and even if we objected, it would not do any good, "however, "we would go on record with the following, and this would "insure" the protection of Housand's privileges and rights, and McNamara advised "this was the best way:

"Housand's Attorneys agreed, (conditionally) to allow "defense and government attorneys", to receive the "Reports", for "THE EXIRESS PURPOSE, AND WE EMPHASIZED THIS, "FOR READING ONLY", Mr. McNamara repeated the foregoing in open court, and Judge Clarie "released" the reports with these instructions"

JERRY, "PLEASE NOTE", Prior to the evaluation by Dr. Donnelly, Housand informed McNamara and Elliot by, and in writing, "Housand was going to refuse the Donelly Evaluation". AND ONLY AFTER a very lengthy conference with his attorneys, in which Housand was assured, "all privileges, rights, etc., of Housand would be protected, DID Housand agree to the Court Ordered Evaluation by Dr. Donnelley".

AT NO TIME, (REPEAT) "NO TIME", DID JOHN ANTHONY HOUSAND "WAIVE", NOR WAS HOUSAND "EVER REQUESTED TO WAIVE" THE "DOCTOR-PATIENT PRIVILEGE" IN THE MATTER OF DR. HARRY HENDERSON", nor was Housand "ever informed" of Dr. John Donnelly's Testimony, or any proposed testimony of "either" of these Doctors.

Housand received knowledge of "their testimony", first by a radio report on 19 April 1975, and was confirmed after requesting, and receiving a copy of Judge Clarie's Decision in Criminal No. H-524, Joost, Guillette, et al., from Max Heiman, my current attorney, on 2 May 1975.

Jerry, I am enclosing "my copy" of Dr. Donnelly's Report, MAKE YOURSELF A COPY AND RETURN MINE TO ME--OK?? As stated, I have "never" seen a copy of "Henderson's Report, nor Henderson's Testimony", although I have requested "copies" on several occasions from Max Heiman. ALSO, am including an Exhibit, The Covernment submitted in response of three (3) civil actions I have presently before the Court, (seperate from my Criminal Action). This Exhibit is "part of Dr. Donnelly's Testimony in "that hearing". MAKE YOURSELF A COPY AND RETURN MINE TO ME--OK?? What I find interesting, is Uncle Sam "did not" submit Dr. Henderson's Testimony as an Exhibit in "these" Civil Actions". (JUST A BIT MORE)

(Continued)

(Letter to Mr. Farrell, dated 15 December 1975 - Continued:)

Jerry, after evaluating "everything", "this Jerry" dan only reach "one conclusion", "no one, and Max Heiman included", has ever wanted Housand to see, or read the Henderson Report, and/or Henderson's Testimony", and simply, and this is my opinion:

"All concerned, and/or all involved", probably has a "damn good idea" as to how Housand might react, and "let us use a bit of "child logic, and idiot reasoning":

1. If Housand had been told, or had any idea, that Henderson's Report contained information in effect, "Housand was capable of "lying"...You can rest assured, John Anthony Housand would have never "agreed" to release any information, and "definitely Housand, would have "received a contempt charge in Judge Clarie's Court". Simply stated, "Housand would have "raised hell", if I had "any idea", such information was contained in Henderson's Report"., OR Dr. Donnelly's for this matter".

2. THEORY: This "Jerry" dislikes even suggesting this:

   a. I'll just include a copy of "facts as they happened"--OK??
   (SEE ATTACHED ALLEGATIONS)

Please Note: "Jerry and Jerry" are the only people that have this information". Max Heiman would have a "small fit", if he had any idea as to what Housand "plans to do with this information". Let me know your thinking on "this information"--OK??

Housand's plan is quite simple, "a writ of Habeas Corpus" is going to His Honor", on/or about 29 December 1975, with these allegations, plus!!

Jerry, I certainly trust all of the enclosed information is helpful, and I repeat, Housand "never waived" any privilege, nor was he requested to waive such privilege", and should you check the "court records", or maybe the Marshal's Office in Hartford would have the record insofar as the date, Housand was brought to Hartford during the week of 3 thru 7 February 1975, (this would help you isolate the "date" in question, or in the alternative, "talk with Tim McNamara, or Ralph Elliot". AND I am sure you will find, John Anthony Housand "did not" waive any privilege.

Take care, and let me know something--OK?? ALSO, "make copies of the enclosed, "Donnelly's Report and Testimony", and RETURN my copies--PLEASE!!

Trusting to hear from you in the near future, and thank you for the interest you have shown in this matter, I am,

Sincerely,

John A. Housand

Encls.

P.S. "Still wish to talk with you regarding other "monetary interests".

ALLEGATIONS

1. Violation - U.S. Const. Amend. 4 - Invasion of Personal Privacy of Defendant John Anthony Housand, (hereinafter known as "Defendant") to wit:

a. The Court, The Special U.S. Attorney, Defense Attorneys for Joost, Guillette, and Zinni, (Criminal No. H-524) and Defendant's Former Attorneys, "did invade defendant's personal privacy", by allowing Dr. Harry Henderson to furnish testimony, on/or about 14 February 1975, in a Federal Court Proceeding, District of Connecticut, in that "such information and/or testimony," (definitely testimony) was and is, "privileged", "without an explict "waiver" freely, and knowingly given by The Defendant. Further, Dr. Henderson is equally responsible for furnishing "reports, and/or testimony", without, first obtaining an explict waiver from his, (Doctor's) patient, the defendant in the instant case".

It is worthy to note, "the defendant, (Housand) was "not" a "party in Criminal No. H-524, i.e. "Plaintiff or Defendant".

b. Dr. Harry Henderson, not only violated his "Doctors Oath", he also, violated the legal statutes of The State of Nebraska, the State he is licensed to practice "medicine and psychiatry", regarding the "privilege" that exists in a "doctor-patient relationship", further, Dr. Henderson violated "comparable" legal statutes in The State of Connecticut, that "bars and prohibits" a licensed doctor, from furnishing "testimony and/or information" in a legal court proceeding, WITHOUT a "waiver" from the patient. Furthermore, Dr. Harry Henderson violated Legal Federal Statutes and Federal Rules of Civil Procedure regarding "privileged testimony and/or information.

c. Dr. John Donnelly furnished "testimony" contrary to The Court's Order regarding an "evaluation" of the defendant, i.e. "Defendant's attorney requested the defendant be evaluated(?) to determine"if" defendant was competant to "assist his attorneys" in defending criminal charges previously lodged against defendant". Yet, Dr. Donnelly furnished testimony in the very same court proceeding, subsequent to Dr. Harry Henderson, on/or about 21 February 1975.

It must be noted, "Dr. Donnelly was called as a witness in aforementioned court proceedings by The Attorneys for The Government", to support the testimony of Dr. Henderson who was called by the "Defense Attorneys for The Defendants in Criminal No. H-524".

Dr. John Donnelly furnished testimony in a legal court proceeding, contrary to Federal Statute, and where defendant was not "a party".

d. Defendant's Attorneys agreed (conditionally) to allow defense and attorneys for the government to receive the "reports" of Dr. John Donnelly and Dr. Harry Henderson, for theexplict purpose for "reading only". Defendant agreed to the foregoing, "only after being informed The Court would release the "reports" regardless of the objections of the defendant and his attorneys, and after defendant was "repeatedly assured" by his attorneys that "no testimony would be given to support these reports", by aforementioned doctors".

Defendant's Attorneys informed defendant that "since defendant was not a "party" in the proceedings, defendant's attorneys were prohibited from "confronting and cross-examining" of any witnesses, in Criminal No. H-524."

The defendant informed his attorneys, (in writing) "prior" to the evaluation by Dr. Donnelly, that defendant was "refusing" to be examined by Dr. Donnelly, and "only after a very lengthy conference with his attorneys, in which his attorneys emphasized, "all rights and/or privileges were being protected", did defendant agree to submit to the examination by Dr. Donnelly".

Allegations, No. 1 - Continued:

d. Continued: Defendant's attorneys at no time, informed defendant of "requirements, and/or consequences" of Rule 35, Federal Rules of Civil Procedure, and/or "any lawful requirement" and Federal or State Statutes, as they applied to defendant, "quite the contrary, defendant's attorneys at all times "assured" defendant that he was "totally protected", in the proceeding before the court, in which defendant was "not a party".

Defendant "does take issue" with Rule 35,. Federal Rules of Civil Procedure, as "it might relate to defendant", in the hearing regarding Criminal No. H-524, subsequent "Ruling" by the Court in Criminal No. H-524, and in the "instant action" before the Court".

Further, after defendant terminated his cooperation attempt with The Government, (this cooperation attempt was commenced at the urging and the advice of defendant's attorneys) defendant discovered his attorneys were not, and had not been acting in defendant's best interests, "such as, not informing defendant of his position, and lawful alternatives as such alternatives related to defendant".

In the interest of fairness, defendant submits, "Mr. Ralph Elliot, former attorney of defendant, "stated" in open court, on/or about 15 December 1974, that: "he, (Mr. Elliot) was not qualified to represent defendant in a "criminal matter, and requested the Court to appoint an attorney that "was qualified in criminal matters to represent defendant", although Mr. Elliot had "never informed defendant of his "lack of criminal experience, prior to Mr. Elliot's declaration in "open court". It must be noted, "Mr. Elliot represented defendant in a very critical stage of defendant's legal proceedings, i.e. "Grand Jury Proceedings, etc.,", and at the request, and/or order of the Court, Mr. Elliot continued to represent defendant, in the capacity of "co-counsel in the criminal indictment, and in "defendant's status as a "material witness". Subsequently, a Mr. F. Timothy McNamara, was appointed to handle the criminal indictment of defendant. At this time Mr. Elliot informed defendant, Mr. McNamara would be responsible for "all decisions" regarding defendant, as "he, (Mr. Elliot) was not qualified in such matters".

Finally, (in defendant's opinion) Mr. Elliot represented defendant to the best of his ability, however Mr. Elliot "should have informed defendant of his lack of criminal experience, from the date of Mr. Elliot's appointment, or in the alternative, "refused" to accept the appointment".

e. The Government's Attorneys in Criminal No.H524, "called as a witness, Dr. John Donnelly, (after defendant terminated his attempt to cooperate with The Government) and "did" elict responses from Dr. Donnelly to support the "unlawful testimony of Dr. Henderson", for the "express purpose" of "shifting all misconduct" to the defendant, regarding "alleged misconduct of government authorities, and defendant", relative to "original trials of Criminal No. H-524".

Defendant terminated cooperation effort with The Government, on/or about 18 February 1975, and The Government called as a witness, Dr. John Donnelly, on/or about 21 February 1975.

f. The Court committed "irreparable harm" to defendant by allowing Dr. Harry Henderson to furnish "testimony" in Criminal No. H-524, legal proceedings, by not obtaining an "explict waiver from defedant regarding "doctor-patient privilege".

The Court committed "irreparable harm" to defendant by allowing Dr. John Donnelly to furnish "testimony" in Criminal No. H-524, legal proceedings, "contrary to the Court's Order, relative to the "purpose" and "intent" of said order, regarding the court-ordered evaluation of defendant".

END OF ALLEGATION NO. 1

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No. 2, (Allegations)

Violation - U.S. Const. Amend. 5 - Seli-Incrimination, Due Process, and Equal Protection - pursuant to Title 18, U.S.C., Section 6002-3, of Defendant John Anthony Housand, (hereinafter known as "Defendant") to wit:

a. The Government used "immunized" statements, trial testimony, and "immunized" grand jury testimony previously furnished by defendant for the purpose of gaining and indictment against defendant. Said indictment was issued on/or about 11 December 1974, Criminal Action No. H-74-185, insofar as defendant was concerned.

b. The Government in gaining Indictment, (Criminal No. H-74-185) did knowingly seek and gain the testimony of an individual by the name of "Joseph Crisafi", knowing the grand jury testimony was in fact, "untrue, and very unreliable". Further, the government knew of the "past and current, (at that time) "mental condition" of grand jury witness Joseph Crisafi", and "purposely failed to inform members of the grand jury of Mr. Crisafi's "mental condition", and rather extensive criminal background. Furthermore, Mr. Crisafi's Grand Jury Testimony was "very instrumental" in gaining an indictment against the defendant."

c. The Government in gaining Indictment, (Criminal No. H-75-40) again, had Joseph Crisafi furnish, (immunized) testimony to the very same grand jury, on/or about 31 January 1975. At this second appearance of Mr. Crisafi, before the Grand Jury, Special U.S. Attorney John M. Dowd, "knowingly" allowed Mr. Crisafi to furnish "false testimony" to said grand jury, and once again, the government did not inform The Grand Jury of Mr. Crisafi's "mental condition" and very extensive criminal background, nor did the government reveal the promises made to Mr. Crisafi, in return for Mr. Crisafi's cooperation with the government".

d. The Government informed defendant and former attorneys of defendant, on/or about 14 February 1975, that "the government knew defendant had been "forced" to return to New England and "recant" previous testimony, and "if defendant continued to do the bidding of "others", such as testifying in support of forced recantation, "other parties" would effect defendant's release from custody, and defendant would be "murdered", and defendant's wife was also a definite "target for injury and probably murder".

e. The Government informed defendant, thru defendant's former attorneys prior to 14 February 1975, that a "condition demanded by the government, in return of "new cooperation by defendant with the government", was, i.e. "defendant would be required to "enter a plea of guilty to one five year count of indictment, and defendant would be required to sign a valid waiver, in which defendant would "never contest the proposed guilty plea, in "any court proceeding".

Defendant's former attorneys stated: "The Government wanted the aforementioned "waiver" for some("never explained clearly to defendant) type of insurance for the government".

f. On/or about 14 February 1975, defendant "agreed" to cooperate with the government, in return the government "agreed" to certain conditions, "for instance: "defendant's cooperation with the government would not be revealed to "other parties", until defendant was called to testify for the government". Special U.S. Attorney John M. Dowd, (after agreeing to various promises, conditions, and what-have-you) returned to the court proceeding, which was in progress, and "informed other parties, i.e. "defense attorneys for defendant's in Criminal No. H-524, that "defendant was in fact, cooperating with the government".

Mr. Dowd, (during subsequent court break) informed defendant in the presence of defendant's attorneys, and other government authorities, that he, (Mr. Dowd) had informed aforementioned parties, of the fact "defendant was cooperating with the government".

Allegations, No. 2 - Continued:

f. Continued: Mr. Dowd, during aforementioned "court break", began in a subtle fashion, to modify previously agreed upon conditions, "such as, defendant would "immediately" enter a guilty plea to one count of Criminal No. H-74-185". Defendant's attorney was present during Mr. Dowd's foregoing statements, (Mr. Elliot). Defendant requested that he be allowed to consult with "both" of defendant's attorneys, prior to going into court to testify, and/or enter a guilty plea, since Mr. McNamara, (defendant's other attorney) was unavailable, and that Mr. McNamara was actually in charge of the criminal phase of defendant's defense. After further discussion, Mr. Dowd "reluctantly" agreed, to defendant's request.

During "all" discussions between Mr. Dowd and defendant, Mr. Dowd repeatedly told defendant, that "defendant alone, would shoulder, "all responsibility", insofar as "misconduct" committed in the two trials in which defendant furnished testimony", (or words to this effect). When defendant would inform Mr. Dowd, "it would be impossible for defendant to "truthfully testify", and "not involve government authorities insofar as "misconduct" was concerned". Upon hearing the foregoing, Mr. Dowd would state: "I want you to tell the truth, but the government was not guilty of no misconduct, and all misconduct was committed by the defendant".

Finally, after discovering Mr. Dowd had "lied" to defendant, and knowing Mr. Dowd, previously "lied" to Mr. McNamara, (defendant's attorney) defendant reached the decision that "it would be in defendant's best interest(s) to terminate his cooperation attempt, with the government, and did terminate cooperation effort on/or about 18 February 1975".

g. The Government has known since on/or about 13 November 1974, that defendant was "forced" to recant his previous testimony. Yet, the government knowingly, and with complete disregard for defendant's "safety, and the safety of defendant's wife and family" did not effect any measures to insure, and/or remove defendant, and defendant's wife and family, from "grave danger of being murdered, and injured", by the parties that forced defendant to return, and recant, and give false information to a Grand Jury".

Until recently, (September 1975) defendant was totally unaware of the foregoing information.

Further, it is most worthy to state: The Government was totally aware that defendant was forced to do the bidding of "others", and The Government has "used" the Court, and the judicial process, in a concerted effort to "hide" the foregoing, and "cover-up" the "misconduct" of various government authorities, (defendant's opinion).

Defendant's current attorney, (Mr. Maxwell Heiman) informed defendant in late September 1975, that "he, (Mr. Heiman) discovered the foregoing information, (by accident) on/or about 24 September 1975, while in the F.B.I. Office, in Hartford, Connecticut.

Defendant John Anthony Housand, "firmly states: "The Honorable T. Emmet Clarie, Chief Judge, U.S. District Court, For The District of Connecticut, "could not have known" of the foregoing information". Because, defendant is "absolutely certain", Judge Clarie, "has not, and does not", tolerate, "situations as contained in paragraph "g", of the foregoing, or "any situation". Further, defendant believes, if Judge Clarie had been furnished "all information" pertaining to defendant's recantation, and other pertinent data, and the "real reasons" defendant has not been brought to trial, defendant is definitely certain, Judge Clarie would have ordered defendant released, upon receipt of such information".

END OF ALLEGATION NO. 2

John A. Housand
No. 25790-145
Pembroke Station
Danbury, Conn. 06810

21 December 1975

Mr. Gerald E. Harrell, Esquire
375 Center Street
Wallingford, Connecticut 06492

Re: Housand's Bucket of Snakes, et al.

Dear Jerry:

First, "this Jerry" would like to wish you and yours, "a very happy holiday season, and much success in the new year". Needless to add, the very same wishes go out to my wife and family, and with "your assistance", "this shall become a "reality".

By this time, you pretty much know Housand's thoughts regarding the Henderson Matter. I have some information, you shall find "interesting and in my opinion, very relevant". I must add, "the credit", for this information, goes to my wife Shirley, and this information does confirm several of my "theories", and probably fills-in several blanks for you", insofar as "key" things happened, to wit:

1. December 17, 1974 is probably the "key" date, and when you read the Court Record for this date, Criminal No. H-524, (Joost, et al.) and this is what happened on that date, as Housand recalls the events, and Shirley's recollection of events on that date:

   a. McNamara informed Housand, we were requesting an evaluation by a doctor friend of his, (Dr. John Donnelly). Housand automatically, "refused". After being assured, "this was in Housand's best interests, and such examination could not be used against Housand in the "current proceedings", (Joost, et al.) Housand reluctantly gave-in, and we went into Court, Mr. McNamara requested the evaluation for the purpose of "determining, if Housand was competent to assist his attorneys in defending Housand's Charges, etc.,".

   b. What Housand found so very strange, (even then) "my attorneys and Shirley's attorney, (Mr. Courtney Bourn), "made a concerted effort, to keep Shirley and I, from "talking with each other". Further, my attorneys "would not talk with Shirley, and "vice-versa", and I was still "very concerned" about Shirley's "safety and security", and did not press the issue for this, and other rather obvious reasons". At this point, Housand was still following instructions, from other individuals.

Jerry, to top everything off, "everyone", (McNamara, Elliot, U.S. Marshals, messages from Strike Force Attorneys thru McNamara) was urging Housand to return to the "control" of The Government. In effect, Housand was in such a position, "damned if he did, and damned if he didn't". So, I gambled, and trusted McNamara. Hell, Shirley had been indicted for something she was not guilty of, and I had been indicted for something, "everyone", and I mean everyone, knew Housand was not guilty".

   c. A few days later, Housand wrote Mr. Elliot a letter stating, "he" was not going through with the court-ordered evaluation, for fear the evaluation would be used against Housand. Well, its obvious, I was convinced, for the reasons, as stated in previous letters to you.

SHIRLEY'S RECOLLECTIONS OF 17 December 1974, (She was in court for arraignment, and she was hoping, "she and I could talk", her attorney advised it would hurt "both of us", so she, and her attorney were present, when the following took place) - NEXT PAGE, "PLEASE"....

Letter to Mr. Farrell, dated 21 December 1975 - Continued:

a. Shirley states, "on 17 December 1975, Mr. James Wade requested Judge Clarie, to order a mental examination of Housand, to be conducted by Dr. John Donnelly, "the government objected, my attorney, Mr. McNamara, did not say "one word". Mr. Wade wanted the government to release all the information, the government had withheld regarding Housand".

Jerry, (my opinion) the foregoing took place with Wade and Santos urging the Court to order the examination under Rule 35, Federal Rules of Civil Procedure....Everyone had a "huddle", and McNamara was "elected" to ask the Court, to order an examination, for Housand, for Housand's Defense", without mentioning Rule 35--because, "if anyone had mentioned Rule 35, or any law to Housand..."he", would have insisted on seeing the law, or rule."

b. When McNamara brought Housand in Court, after assuring Housand, "none of the results of Dr. Donnelly's evaluation, "could or would, be used in the current proceedings", Housand reluctantly agreed".

McNamara made the request, and either Santos or Wade objected, Uncle Sam made no comment, and the Court ordered the examination, for the purpose of Housand being competent to assist his attorneys, et al.

Jerry, simply stated: "Everyone, (The Court, The Defense, The Prosecution, and Housand's Attorneys) conspired to do a number on Housand, and did one helluva job, "as we both know".

None of the foregoing changes one damn thing, "insofar as my thinking on Henderson, or anyone", because Mr. Farrell, "with your assistance", this Jerry is willing to "swing-all-the-way".

Would suggest, you contact Ralph Elliot, and obtain several copies of the letter I wrote to him, in which Housand was "refusing" to be examined, and you should do this in, "the very near future", because Housand has "added" "teeth", in the current writ, he plans to file "very soon".

Oh yes, "expect a letter from my wife, on the foregoing subject".

Hope to see you in the near future, and/or hear from you, I am,

Sincerely,

John A. Housand

P.S. Will send you a copy of Housand's New Motion, on/or about 29 December 1975.

BEST COPY AVAILABLE